

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

**FILED**

JAN 24 2020

Clerk, U.S. District Court  
District Of Montana  
Missoula

MARK WILLIAM COLLINS,

Plaintiff,

vs.

TIM FOX, JOHN MICU, SCOTT  
HOWARD, MARK HILYARD,  
MORGAN SMITH, and CHRIS  
MILLER,

Defendants.

CV 19-82-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered a Findings and Recommendations on December 30, 2019, recommending that the Court stay proceedings in this matter pending the completion of Plaintiff Mark William Collins's appeal of his state criminal conviction. (Doc. 11; *see also* Doc. 9.) Collins did not object to the Findings and Recommendations; in fact, he agrees that a stay is appropriate (Doc. 10). Thus, Collins has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court reviews for clear error those findings and recommendations to which no party objects. *See Thomas v. Arn*, 474 U.S. 140, 149-53 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been made." *Wash. Mut., Inc. v.*

*United States*, 856 F.3d 711, 721 (9th Cir. 2017) (citation omitted).

Having reviewed the Findings and Recommendations (Doc. 11), the Court finds no clear error in Judge Johnston's recommendation that this matter be stayed pursuant to *Younger v. Harris*, 401 U.S. 37 (1971).

Accordingly, IT IS ORDERED that:

(1) Plaintiff Mark William Collins's Motion to Stay (Doc. 10) is GRANTED;

(2) Judge Johnston's Findings and Recommendations (Doc. 11) is ADOPTED IN FULL;

(3) The Clerk of Court shall administratively close this matter;

(4) Collins shall file a report on the status of his state criminal proceeding every six months until such time as his criminal charges have been resolved; and

(5) In the event that Collins would like to continue this matter after resolution of the state proceeding, he must request that the stay be lifted and the case reopened within 30 days of resolution of his state criminal appeal.

DATED this 24<sup>th</sup> day of January, 2020.



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Dana L. Christensen, Chief Judge  
United States District Court